

FILED

1 COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

2 Name: Lees' Alexander
 3 (Last) (First) (Middle Initial)
 4 Prisoner Number: E-13832
 5 Institutional Address: P.O. BOX 7500
 6 Crescent City, CA 95532
 7

SUSAN Y. SODING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SEP 23 2019

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 Alexander Lees'
 11 (Enter your full name.) }
 12 vs. }
 13 Singsong, K. Hogland, }
 14 J. Mariscal, O. Ponce }
 15 (Enter the full name(s) of the defendant(s) in this action.) }

Case No. 19-cv-01603-HSG
 (Provided by the clerk upon filing)

COMPLAINT UNDER THE
 CIVIL RIGHTS ACT,
 42 U.S.C. § 1983
 AMENDED COMPLAINT

17 I. Exhaustion of Administrative Remedies.

18 Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

- 20 A. Place of present confinement Pelican Bay State Prison Crescent City, CA
 21 B. Is there a grievance procedure in this institution? YES NO
 22 C. If so, did you present the facts in your complaint for review through the grievance
 23 procedure? YES NO
 24 D. If your answer is YES, list the appeal number and the date and result of the appeal at each
 25 level of review. If you did not pursue any available level of appeal, explain why.
 26 1. Informal appeal: SVSP-SC-17001796; SVSP-L-1701800,
 27 No informal level. As a staff complaint is only
 28 subject to second level review

1 2. First formal level: NIA
2
3
4

5 3. Second formal level: Denied 5-19-17, Denied 4-25-17
6
7

8 4. Third formal level: Denied 8-15-17, Denied 9-25-17
9

10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES NO

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13 NIA
14
15

16 II. Parties.

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 Alexander Lees, P.O. Box 7500, Crescent City, CA

19 95532

20 B. For each defendant, provide full name, official position and place of employment.

21 Singsong, Licensed Vocational Nurse, Salinas Valley State Prison

22 K. Hogeland, Correctional Officer, Salinas Valley State Prison

23 J. Mariscal, Correctional Officer, Salinas Valley State Prison

24 O. Ponce, Correctional Officer, Salinas Valley State Prison

25

26

27

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved
3 and to include dates, when possible. Do not give any legal arguments or cite any cases or
4 statutes. If you have more than one claim, each claim should be set forth in a separate
5 numbered paragraph.

6 See Attached

7

8

9

10

11

12

13

14

15

16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
18 want the court to do for you. Do not make legal arguments and do not cite any cases or
19 statutes.

20 See attached .

21

22

23

24 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

25 Executed on: 9-18-19

 Date

 Signature of Plaintiff

ALEXANDER LEES'
CDC# E-13832
PELICAN BAY STATE PRISON
P.O. BOX 7500
CRESCENT CITY, CA 95532

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Alexander Lees'
Plaintiff,

vs.

K. Hogeland, Correctional Officer
J. Mariscal, Correctional Officer
O. Ponce, Correctional Officer
Singsong, LVN,
Defendants,

Case No. 19-cv-01603-HSG

AMENDED COMPLAINT
UNDER THE CIVIL RIGHTS ACT
42 U.S.C. § 1983

JURY TRIAL DEMANDED

I. JURISDICTION & VENUE

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

(1)

1 2. The Northern District of California is an appropriate
2 venue under 28 U.S.C. Section 1331(b)(2) because it is where
3 the events giving rise to this claim occurred.

II. PLAINTIFF

7 3. Plaintiff, Alexander Lees', is and was at all times
8 mentioned herein a prisoner of the state of California in the
9 custody of the California Department of Corrections and
10 Rehabilitation. He is currently confined in Pelican Bay State
11 Prison, in Crescent City, California.

III. DEFENDANTS

15 4. Defendant K. Hogeland is a Correctional Officer of the
16 California Department of Corrections and Rehabilitation
17 who at all times mentioned in this complaint was assigned
18 to Salinas Valley State Prison (SVSP). He, is legally
19 responsible for the welfare of all inmates under his care.
20 and watch.

22 5. Defendant J. Mariscal is a Correctional Officer of the
23 California Department of Corrections and Rehabilitation
24 who at all times mentioned in this complaint was assigned
25 to SVSP. He is legally responsible for the welfare of all
26 inmates under his care and watch.

28 6. Defendant O.Ponce is a Correctional Officer of the
(2) .



1 California Department of Corrections and Rehabilitation
2 who at all times mentioned in this complaint was assigned
3 to SVSP. He is legally responsible for the welfare of all
4 inmates under his care and watch.
5

6 7. Defendant Singsong is a Licensed Vocational Nurse of
the California Correctional Health Care Services who at all
times mentioned in this complaint was assigned to SVSP. He
is legally responsible for the proper care and reporting of all
injuries to all inmates in his care.
11

12 8. Each defendant is sued in his individual and official
capacity. At all times mentioned in this complaint each defendant
acted under the color of state law.
15

16 III STATEMENT OF FACTS
17

18 a. On April 2, 2017, while incarcerated at SVSP, Plaintiff,
19 Alexander Lees', was attacked and beaten by another inmate
20 thirty years his junior.
21

22 b. Unable to defend himself, Plaintiff received multiple
23 punches and kicks from his assailant to his face, neck, ribs,
24 and upper and lower back.
25

26 ii. From this attack, Plaintiff immediately began to experience
27 excruciating pain in his lower back. This numbing pain traveled
28 down his left side of his lower body and left leg. He also
(3)



1 experiences a throbbing and blinding pain from the punches
2 he received to his face and neck.
3

4 12. Due to this initial incident, an all-code-calls-alarm
5 (alarm) was dispatched for all designated officers and
6 medical personnel on SVSP B-facility to respond to.
7

8 13. Upon information and belief, SVSP's Health Care Services
9 assigns a nurse to respond to all alarms on B-facility.
10

11 14. Upon information and belief, Defendant Singsong was
12 assingn to respond to all alarms on B-facility, On April 2, 2017,
13 onprovide medical attention to all inmates involved in the
14 alarms.
15

16 15. Defendants K. Hogeland, J. Mariscal, and O. Ponce responded
17 to the alarm called for the initial incident where Plaintiff
18 was attacked.
19

20 DELAY AND DENIAL OF MEDICAL NEED

21

22 16. Immediately, Plaintiff was ordered to get down on the floor
23 by one of the responding officers, Defendant J. Mariscal.
24

25 17. Although in severe pain from the initial attack, Plaintiff
26 complied and proned out, face down on the ground.
27

28 18. While still on the ground, Defendant J. Mariscal stepped over
 (4)



1 Plaintiff and instructed him to place his hands behind
2 his back to be cuffed.

3
4 19. Plaintiff immediately notified Defendant Mariscal
5 that he was in severe pain and of the fact that he had
6 a Special Cuffing medical chrono-(See Exhibit A)

7
8 20. Plaintiff, Alexander Lees' is a chronic care patient
9 and has been diagnosed, prior to April 2, 2017, with disc
10 disease and left side nerve damage and suffers from
11 chronic lower back pain. (See Exhibit B)

12
13 21. Per chrono, issued by California Correction Health Care
14 Services (CCHCS), he is entitled to special cuffing, not behind
15 his back.

16
17 22. Ignoring Plaintiff's pleas not to be cuffed behind his
18 back, Defendant J. Mariscal forcefully pulled Plaintiff's
19 arms back and cuffed him behind his back.

20
21 23. Plaintiff cried out from the pain he felt from being
22 cuffed behind his back and begged for medical attention
23 but was ignored by Defendants Mariscal, Hogland, and
24 Ponce.

25
26 24. Plaintiff looked around for any medical personnel to
27 assist him but did not see any nurse around.



1 25. Plaintiff was instructed to sit up. As he attempted to
2 comply and sat up, his lower back and legs began to
3 cramp.

4
5 26. Plaintiff complained of experiencing excruciating pain from
6 the initial attack and from being cuffed behind his back to
7 both Defendants Hogeland and Ponce and again asked
8 for medical attention to his serious injuries and chronic pain.
9

10 27. Suddenly and without warning Defendant J. Mariscal
11 forcefully snatched Plaintiff off the ground, causing
12 severe pain, and was told "You want medical? then walk".
13

14 28. Plaintiff was made to walk towards medical despite
15 severe cramping in his legs and lower back.
16

17 29. Approximately 30 to 40 yards from medical, Plaintiff's
18 legs began to cramp again and back spasms took Plaintiff
19 to the ground.
20

21 30. Plaintiff loss consciousness.
22

23 31. When Plaintiff regained consciousness, he found himself
24 in B-facility medical surrounded by Defendants K. Hogeland,
25 J. Mariscal, O. Ponce, and now Defendant Singsong, LVN.
26

27 32. Quickly seeing medical personnel, Plaintiff asked Defendant
28 Singsong to help him and provide medical attention. but

1 Defendant just ignored him.
2
3

33. On a regular basis, Defendant Singsong issued
4 inmates their prescriptions. Plaintiff receives medication
5 three times a day for his lower back and nerve pain.
6 Defendant Singsong was familiar with Plaintiffs
7 ailments and chronic pain prior to April 2, 2017.
8

9 34. Defendant Singsong failed to provide Plaintiff any
10 medical attention. He did not examine or questioned
11 Plaintiff regarding his complaint of being in severe
12 pain as obligated by law.
13

14 35. Defendant Singsong also failed to respond to
15 the alarm dispatched when Plaintiff was attacked
16 and provide on-scene immediate medical attention.
17

18 36. Defendant Singsong failed to properly examine and
19 evaluate Plaintiff, Alexander Lees, serious injuries and showed
20 deliberate indifference to his serious injuries by deeming them
21 as minor and disregarding his constant pleas for aid. He
22 also failed to properly report Plaintiff's injuries in mandatory
23 departmental injury report. Upon request of all related medical
24 and injury reports from the incidents of April 2, 2017, none
25 were lodged in Plaintiff's C-file or medical file.
26

27 37. By failing to follow law mandated protocol regarding
28 to injuries to inmates and administering prison health care

1 services, Defendants K. Hogeland, J. Mariscal, O. Ponce
2 denied and unreasonably delayed Plaintiffs right of
3 access to adequate medical care to his injuries from the
4 initial attack, leg cramps, back pain, and cuffing behind
5 his back.

6
7 38. Defendants K. Hogeland, J. Mariscal, O. Ponce, and
8 Singsong were indifferent to Plaintiffs serious medical
9 needs, which each and all defendants were aware of, and as
10 a result of that deliberate indifference was mistreated as
11 minor as his condition and pain worsened.

12
13 39. The failure by Defendants K. Hogeland, J. Mariscal,
14 O. Ponce, and Singsong of providing Plaintiff with
15 medical attention when Plaintiff first pled for help
16 and informed Defendants, and each of them, of his
17 serious injuries resulted in further significant injury
18 and unnecessary and wanton infliction of pain.

19
20 EXCESSIVE USE OF FORCE

21
22 40. After Plaintiff begged Defendant Singsong to
care for his injuries, Defendant K. Hogeland began to
23 scream at Plaintiff to "get up" and told Defendant
24 Singsong that Plaintiff was "faking" at which time
25 Defendant K. Hogeland picked up and threw Plaintiff
26 in a wheelchair.
27

1 41. Plaintiff asked Defendant SingSong for help
2 but instead was restrained in the wheelchair by
3 Defendants Hogland, Mariscal, and Donce. and
4 wheeled out to B-facility's gym to be placed
5 in a holding cages.

6
7 42. Upon information and belief, there are three holding
8 cages in B-facility gym. They are enclosed in solid
9 plastic. All yards and facilities at SVSP have these
10 holding cages with an officer on post to assure
11 prisoner and staff safety.

12
13 43. When wheeled into B-facility gym, Defendant K.
14 Hogland ordered Plaintiff to enter the small holding
15 cage.

16
17 44. Plaintiff tried to explain to Defendants, and each
18 of them, of his suffering from overwhelming painful back
19 spasms and leg cramps and the fact that he suffered
20 from claustrophobia.

21
22 45. Plaintiff, Alexander Lees', is a mental health patient and
23 under CCCMS mental health care. with claustrophobia (See Exhibit C)

24
25 46. Use of force policy for CCCMS requires for and limits on
26 prison staff when using force against prisoners on the mental
27 health caseload. In all controlled use of force situations, there
28 must be a cool down period during which a mental health staff
(a)



1 member must try to resolve the problem. (See Exhibit D)
2

3 47. Plaintiff was cuffed behind his back, restrained in
4 a wheelchair surrounded by three prison officers, Defendants
5 Hogeland, Mariscal, and Ponce. The situation was controlled.
6

7 48. As Plaintiff tried to inform Defendant Hogeland of
8 his pain and claustrophobia he, Defendant Hogeland, ordered
9 Defendant Singsong to leave the gym.

10 49. Suddenly, Defendant K. Hogeland snatched Plaintiff
11 up from the wheelchair and threw him on the floor and
12 proceeded to beat, pummel, and kick Plaintiff. He slammed
13 Plaintiff on his face, elbows, and bent his arms back.
14

15 50. Instead of stopping the beating Plaintiff was receiving
16 from Defendant Hogeland, Defendants J. Mariscal and O. Ponce
17 joined in on the beating of Plaintiff.
18

19 51. Defendant Mariscal punched, kicked and dragged
20 Plaintiff, hitting him in the head, face, back, and legs.
21

22 52. Defendant Ponce punched, kicked and pummeled Plaintiff
23 on the face, neck, back and twisted his arms.
24

25 53. Plaintiff begged for Defendants Hogeland, Mariscal, and
26 Ponce to stop the beating. Plaintiff felt he was going to
27 be killed by his assailants Hogeland, Mariscal and Ponce, Defendants
28 (10)



1 54. Plaintiff loss consciousness from the beating received by
2 Defendants K. Hogeland, J. Mariscal, and O. Ponce. He was
3 Emergency -Transferred to CTC Medical.

4
5 Due Process Violation.
6

7 55. Defendants K. Hogeland, J. Mariscal, O. Ponce, and
8 Singsong conspired to cover up the events that took place
9 on April 2. 2017. They, and each of them, falsified injury
10 reports throwing blame of Plaintiff for their illegal
11 actions. Plaintiff was falsely accused of assaulting staff
12 as a means to condone his beating. (See Exhibit E)

13
14 56. Plaintiff was placed in Administrative Segregation
15 Unit and received D.A. referral.

16
17 57. Defendants K. Hogeland, J. Mariscal, O. Ponce owed
18 Plaintiff the duty of keeping him free of injury to
19 himself. Defendants Hogeland, Mariscal, and Ponce failed
20 this duty when they beat Plaintiff unconsciously while
21 in restraints.

22
23 58. The excessive force demonstrated by Defendants Hogeland,
24 Mariscal, and Ponce was not applied in a good faith effort to
25 maintain or restore order but to maliciously and sadistically
26 cause Plaintiff, Alexander Lees, harm.

27
28 59. The beating Plaintiff received is not justified by any
(11).



1 legitimate prison management need and was completely out
2 of proportion to that need.

3

4 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5

6 60. Plaintiff has previously sought and exhausted available
7 relief from the proper administrative officials regarding the
8 acts alleged in this complaint.

9

10 61. The grievance procedures are completed and denied by
11 CDCR at all levels as monetary compensation is outside of
12 their jurisdiction. (See Exhibit F)

13

14 **V. LEGAL CLAIMS**

15

16 62. Plaintiff realleges and incorporates by reference
17 paragraphs' 1-61.

18

19 63. The delay, denial, and deliberate indifference to Plaintiffs
20 medical need violated Plaintiff's Lees' rights and constituted
21 cruel and unusual punishment under the Eight Amendment
22 to the United States Constitution. by all Defendants.

23

24 64. The excessive force use in the beating of Plaintiff. by
25 Defendants K. Hogeland, J. Mariscal, and O. Ponce violated
26 Plaintiff Lees' rights and constituted cruel and unusual
27 punishment under the Eight Amendment to the United States
28 Constitution.

(12).



1 65. The falsification of document which placed Plaintiff
2 in Administrative Segregation forcing him to plea and
3 prove his innocence for frivolous charges condoning .
4 Defendants K. Hogeland, J. Mariscal, and O. Ponce's
5 actions are a clear violation of Plaintiff Lees rights
6 and constitutes a clear violation of the Due Process Clause
7 of the Fourteenth Amendment to the United States
8 Constitution.

9
10 66. Plaintiff Lees has no plain, adequate or complete
11 remedy at law to redress the wrongs described herein. Plaintiff
12 has been and will continue to be irreparably injured by the
13 conduct of the defendants unless this court grants the
14 declaratory and injunctive relief which plaintiff seeks.
15

16 **VII. PRAYER FOR RELIEF**

17
18 WHEREFORE, Plaintiff respectfully prays that this court enter
19 judgement:

20
21 Granting Plaintiff Lees' a declaration that the acts
22 and omissions described herein violate his rights under the
23 Constitution and laws of the United States and

24
25 A preliminary and permanent injunction ordering
26 Defendants to remove all disciplinary actions stemming from
27 this incident be expunged from his C-file and cease their
28 physical violence and threats toward Plaintiff.

(13)



Compensatory damages in the amount of \$1250,000
against each defendant, jointly and severally.

Punitive damages in the amount of \$100,000 against
each defendant.

A jury trial on all issues triable by jury

Plaintiff's costs in this suit

Any additional relief this court deems just, proper, and
equitable.

Dated: September 18, 2019

Alexander Lees
CDC# E-13832
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95532

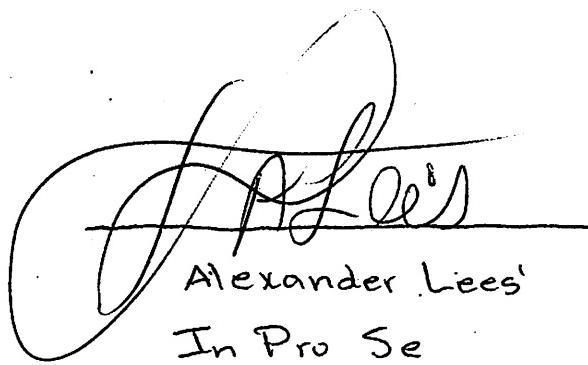
VERIFICATION

I have read the foregoing complaint and hereby
verify that the matters alleged therein are true, except as to
matters alleged on information and belief, and, as to those, I
believe them to be true, I certify under penalty of perjury
that the foregoing is true and correct.

(14)



1 Executed at Crescent City, CA on September 18, 2019
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


Alexander Liees'
In Pro Se

(15)



Index of Exhibits

| Exh. | Description | Pgs. |
|------|----------------------------------|------|
| A | Special Cuffing Chrono | 2 |
| B. | Examination Report | 7 |
| C. | Mental Health Diagnosis/ADA | 2 |
| D. | Use of Force, Mental Health Info | 1 |
| E. | Incident Report | 5 |
| F. | Health Care Appeal/Inmate Appeal | 15 |

EXHIBIT A

- For Potential for lack of continuity of care: Take 1 tab (Total Dose = 40 mg), by mouth once a day at bedtime on your own
 - Start Date: September 04, 2018
 - Take for: 330 day(s)

Comments: --

LEES, ALEXANDER has been given the following list of follow-up instructions, prescriptions, and patient education materials:

Follow-up Appointments

Cocci Skin Testing 09/23/17 3:02:15 PDT

Consult to Physical Therapy (PT) Outpatient Eval and Treat 11/26/18 0:01:00 PST, Routine Priority (46-90 days), Chronic low back pain | Radicular pain, Chronic low back pain, bulging discs (MRI 2009, EMG 2010 - neg). Pls eval for HEP, 02/26/19 23:59:00 PST

Follow Up LVN 10 09/07/19 0:01:00 PDT, Care Management, 7 days, 09/14/19 23:59:00 PDT, PHS

Follow Up LVN 10 07/10/20 0:01:00 PDT, Care Management, 1 week, 07/17/20 23:59:00 PDT, Biennial PHS last seen 7/18/18

Follow Up LVN 10 01/25/19 7:50:00 PST, Blood Pressure Check, 30 days, 09/28/18 23:59:00 PDT, bp monthly x 180 d Report to pcp if sbp>150 or DBP >100

Follow Up LVN 10 02/22/19 7:30:00 PST, Blood Pressure Check, 30 days, 09/28/18 23:59:00 PDT, bp monthly x 180 d Report to pcp if sbp>150 or DBP >100

Medical Chronic Care (CCP) Follow Up 40 08/29/18 0:01:00 PDT, *180 days (all other chronic conditions), 02/25/19 23:59:00 PST, CC HTN, HLD 180 d

Medical Episodic Care Follow Up 20 01/04/19 12:20:00 PST, 7 days, 01/10/19 23:59:00 PST, f/u on refusal of nifedipine x 3, lisinopril, hctz, pravastatin all refused x1. (Also refusing lithium)

Chronos

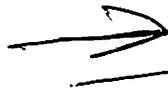
128-D Dental Priority Classification 08/16/17 13:45:00 PDT, DPC 3

128-D Dental Priority Classification 10/16/17 12:29:00 PDT, DPC 4

7410 08/14/17 10:58:00 PDT

7410 (SOMS) 08/14/17 10:56:51 PDT, P, 7410 Expire Date 12/31/9999, LBO, Cutover Entry - New Arrival

7410 (SOMS) 08/14/17 10:59:14 PDT, P, 7410 Expire Date 12/31/9999, LBO, SC, LR, Cutover Entry - New Arrival

EX-10-A
20F2***DPW**= Full Time Wheelchair User Impacting Placement
Placement**DPO**= Intermittent Wheelchair User Impacting**DPM**=Mobility Impairment Impacting Placement
Placement**DLT**=Requires Level Terrain NOT Impacting**DPH**=Deaf/Hearing Impairment Impacting Placement
Placement**DNH**=Hearing Impairment NOT Impacting**DPV**=Blind/Vision Impairment Impacting Placement**BFWCO**=Barrier Free Wheelchair**GFLS**= Ground Floor-Limited Stairs**GFNS**=Ground Floor-No Stairs**LBO**= Lower/Bottom Bunk Only**IAA**=Inmate Attendant/Assistant**WCFT**=Full Time Wheelchair User**WCLT**=Limited Wheelchair User


SC=Special Cuffing Needed,


TVWL=Transport Vehicle with Lift**UVX**=UV Exposure Restrictions**ETM**=Extra Time for Meals**DKD**=Kidney Disease**WRN**=No Rooftop Work**UNST**=Unrestricted**LR**=Lifting Restriction- Unable to Lift more than 19 Pounds**DNM**= Mobility Impairment (Lower Extremities) NOT Impacting Placement

EXHIBIT B

11/05/2009 10:11 5184

11/02/2009 Mon 07:54

SVSP CTC MD 2010

ID: #165491 Page 1 of 2



Salinas Valley Radiologists, Inc.
559 Abbott Street, Salinas, CA 93901
Phone: (831) 775-5200

James A. Kowalski, MD
Donald A. Catalano, MD
Giles A. Duszdiak, MD
Michael E. Bass, MD
David A. Staunton, MD
Gary E. Falkoff, MD

Richard A. Villalobos, MD
B. Misa Hoschman, MD
F. Scott Persles, MD
Tameer Anwar, MD
Amy Lantie Sterneman, MD
Kristen M. Wulff, MD
Arthur Nathanson, MD

PATIENT NAME: ALEXANDER LEES

| ACCOUNT NO | ACCESSION NO | DATE OF BIRTH | AGE / SEX | DATE OF SERVICE | OUTSIDE NO |
|------------|--------------|---------------|-----------|-----------------|------------|
| M200007147 | 1000151630 | 02/07/1962 | 47 / M | 10/28/2009 | E13832 |

AT THE REQUEST OF
JOANNE RHOADS, NP
31625 HWY 101
SOLEDAD, CA 93960-0

LOCATION
GROUP - GROUP

GRP MR LUMBAR SPINE W/O CONTRAST

HISTORY: 47-year-old male with chronic low back pain and L4-5 disc space degeneration seen on plain x-rays of November 2008.

TECHNIQUE: Scanning was performed at 1.5 T in multiple planes with various standard and/or modified spin echo and/or gradient echo sequences to observe morphology and tissue signal characteristics. These will be detailed as may be appropriate in the report below.

FINDINGS: In sagittal imaging planes, the vertebral bodies are normally aligned. The discs are normal at all levels except L4-5 where the disc spaces narrow and the nucleus is very small and degenerated. The endplates show mildly increased signal with T1 and T2 weighting, a combination of slight active and chronic degenerative endplate disease. There is a slight indentation on the ventral CSF at this level.

The axial image sequences confirm disc disease at this L4-5 level showing a moderate diffuse annular bulge circumferentially but with exaggeration toward the left and moderate encroachment on the inferior part of the left neural foramen at L4-5. This may be a moderate disc protrusion. It is difficult to tell because of the sequencing techniques. No other findings are noted on axial.

CONCLUSION: Obvious degenerative disc disease at L4-5 including the endplates and with annular bulging and very likely a left posterolateral protrusion that encroaches slightly on the inferior neural foramen.

Thank you for referring your patient to us;

Arthur Nathanson, MD 10/30/2009 8:11AM RB 10/30/2009 12:49 PM

THIS INFORMATION IS RELEASED FOR YOUR PROFESSIONAL USE AND IS PRIVILEGED.
DO NOT DUPLICATE WITHOUT THE EXPRESSED PERMISSION OF THE PATIENT.
IF YOU RECEIVE THIS REPORT IN ERROR, PLEASE CONTACT OUR FACILITY.)

11/5/09
Q2

~~EXHIBIT NO 1-6~~

Rehabilitation Management Systems, Inc.

A Medical Corporation

648 Northfield Drive
Sacramento, CA 95833
(916) 927-3422
(916) 927-1245 Fax

Date of Examination: 3/10/2010

| | | | | | |
|----------|-----------------|------|----------|--------------------|--------------------|
| Patient: | Lees, Alexander | DOB: | 2/7/1962 | Neurophysiologist: | D. White, DPT, ECS |
| ID#: | E13832 | SEX: | Male | | |

PRIMARY COMPLAINTS:

Patient is a 48 year-old male who presents with low back pain radiating to the lower extremities (L>R). He reports numbness and tingling in the left lower extremity generally and pain in the right hip. Patient complains of increased pain with standing and lying down with pain related weakness in the lower extremities.

IMPRESSIONS/CONCLUSIONS: THIS IS AN ABNORMAL STUDY.

1. SIGNIFICANT ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of a MILD peroneal nerve compromise at or near the ankle on the left. See Comment # 1 below.

SUMMARY OF NORMAL FINDINGS

1. NO ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of an isolated tibial nerve entrapment bilaterally.
2. NO ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of an isolated peroneal nerve entrapment on the right.
3. NO ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of an isolated sural nerve entrapment bilaterally.
4. NO ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of an underlying polyneuropathic process of the bilateral lower extremities.
5. NO ELECTROPHYSIOLOGIC EVIDENCE was recorded suggestive of a lumbosacral radiculopathic process involving the L2-S2 nerve roots bilaterally.

Patient: Lees, Alexander

Test Date: 3/10/2010

Page 2

COMMENTS:

1. LEFT LOWER EXTREMITY - PERONEAL NERVE: The peroneal motor distal latency was PROLONGED with decreased CMAP amplitudes. The left peroneal motor F-wave was prolonged.

Respectfully,

Reviewed and Interpreted by:



Darin White, DPT, ECS
ABPTS Board Certified in Clinical EMG/NCS



Paul E. Kaplan, MD
Board Certified in PM&R and Electrodiagnostic Medicine

Limb temperature was maintained above 32 degrees Celsius for upper limbs and above 28 degrees Celsius for lower limbs. Side-to-side comparisons were within normal limits unless otherwise noted.

This study has been performed in accordance with the California Business and Professions Code, and with the California Code of Regulations. The findings in this report do not represent diagnostic interpretations or medical diagnosis. The results of the electromyographic examination must be integrated with the patient's history, clinical examination, and results of any other tests performed in establishing a medical diagnosis.

Patient: Lees, Alexander

Test Date: 3/10/2010

Page 3

Nerve Conduction Studies**Anti Sensory Summary Table**

| Site | NR | Peak (ms) | Norm Peak (ms) | P-T* Amp (μV) | Norm P-T Amp | Site1 | Site2 | Delta-P (ms) | Dist (cm) | Vel (m/s) | Norm Vel (m/s) |
|--|----|-----------|----------------|---------------|--------------|-------|----------|--------------|-----------|-----------|----------------|
| Left Sural Anti Sensory (Lat Mall) | | | | | | | | | | | |
| Calf | | 3.9 | <4.2 | 14.1 | >5.0 | Calf | Lat Mall | 3.9 | 14.0 | 36 | >33 |
| Site 2 | | 4.0 | | 16.7 | | | | | | | |
| Right Sural Anti Sensory (Lat Mall) | | | | | | | | | | | |
| Calf | | 3.7 | <4.2 | 16.7 | >5.0 | Calf | Lat Mall | 3.7 | 14.0 | 38 | >33 |

Motor Summary Table

| Site | NR | Onset (ms) | Norm Onset (ms) | O-P* Amp (mV) | Norm O-P Amp | Site1 | Site2 | Delta-0 (ms) | Dist (cm) | Vel (m/s) | Norm Vel (m/s) |
|--|----|------------|-----------------|---------------|--------------|--------------|-------------|--------------|-----------|-----------|----------------|
| Left Peroneal Motor (Ext Dig Brev) | | | | | | | | | | | |
| Ankle | | 6.9 | <6.0 | 0.6 | >2.5 | B Fib | Ankle | 8.1 | 36.0 | 44 | >40 |
| B Fib | | 15.0 | | 0.7 | | Poplt | B Fib | 2.5 | 11.0 | 44 | >40 |
| Poplt | | 17.5 | | 0.5 | | | | | | | |
| Right Peroneal Motor (Ext Dig Brev) | | | | | | | | | | | |
| Ankle | | 5.8 | <6.0 | 4.0 | >2.5 | B Fib | Ankle | 7.6 | 37.0 | 49 | >40 |
| B Fib | | 13.4 | | 3.3 | | Poplt | B Fib | 2.1 | 9.0 | 43 | >40 |
| Poplt | | 15.5 | | 3.0 | | | | | | | |
| Left Tibial Motor (Flex Hall Brev) | | | | | | | | | | | |
| Below Ankle | | 4.4 | <6.0 | 7.4 | >3.0 | Above Ankle | Below Ankle | 2.2 | 10.0 | 45 | >38 |
| Above Ankle | | 6.6 | | 7.9 | | Poplit Fossa | Above Ankle | 8.7 | 42.0 | 48 | >40 |
| Poplit Fossa | | 15.3 | | 6.1 | | | | | | | |
| Right Tibial Motor (Flex Hall Brev) | | | | | | | | | | | |
| Below Ankle | | 5.0 | <6.0 | 6.3 | >3.0 | Above Ankle | Below Ankle | 1.7 | 10.0 | 59 | >38 |
| Above Ankle | | 6.7 | | 11.3 | | Poplit Fossa | Above Ankle | 8.9 | 42.0 | 47 | >40 |
| Poplit Fossa | | 15.6 | | 8.5 | | | | | | | |

F Wave Studies

| NR | F-Lat (ms) | Lat Norm (ms) | L-R F-Lat (ms) | L-R Lat Norm | M-Lat (ms) | FLat-MLat (ms) |
|-------------------------------------|------------|---------------|----------------|--------------|------------|----------------|
| Left Peroneal (Mrkrs) (EDB) | 60.49 | <60 | 4.49 | <4.0 | 6.33 | 54.16 |
| Right Peroneal (Mrkrs) (EDB) | 56.00 | <60 | 4.49 | <4.0 | 5.33 | 50.67 |
| Left Tibial (Mrkrs) (Abd Hallucis) | 55.33 | <61 | 0.00 | <4.0 | 6.67 | 48.66 |
| Right Tibial (Mrkrs) (Abd Hallucis) | 55.33 | <61 | 0.00 | <4.0 | 6.67 | 48.66 |

H Reflex Studies

| NR | H-Lat (ms) | L-R H-Lat (ms) | L-R Lat Norm | M-Lat (ms) | HLat-MLat (ms) |
|------------------------|------------|----------------|--------------|------------|----------------|
| Left Tibial (Gastroc) | 33.78 | 0.44 | <2.0 | 7.56 | 26.22 |
| Right Tibial (Gastroc) | 34.22 | 0.44 | <2.0 | 7.56 | 26.66 |

Patient: Lees, Alexander

Test Date: 3/10/2010

Page 4

EMG

| Side | Muscle | Nerve | Root | Ins Act | Fibs | Psw | CRD's | Fascic | Amp | Dur | Poly | Reclt | Int Pat | Comment |
|-------|---------------|--------------|-------|---------|------|-----|-------|--------|-----|-----|------|-------|---------|---------|
| Right | VastusMed | Femoral | L2-4 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Right | AntTibialis | Dp Br Peron | L4-5 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Right | Peroneus Long | Sup Br Peron | L5-S1 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Right | MedGastroc | Tibial | S1-2 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Right | BicepsFemS | Sciatic | L5-S1 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Left | VastusMed | Femoral | L2-4 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Left | AntTibialis | Dp Br Peron | L4-5 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Left | Peroneus Long | Sup Br Peron | L5-S1 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Left | MedGastroc | Tibial | S1-2 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |
| Left | BicepsFemS | Sciatic | L5-S1 | Nml | Nml | Nml | Nml | 0 | Nml | Nml | 0 | Nml | Nml | Nml |

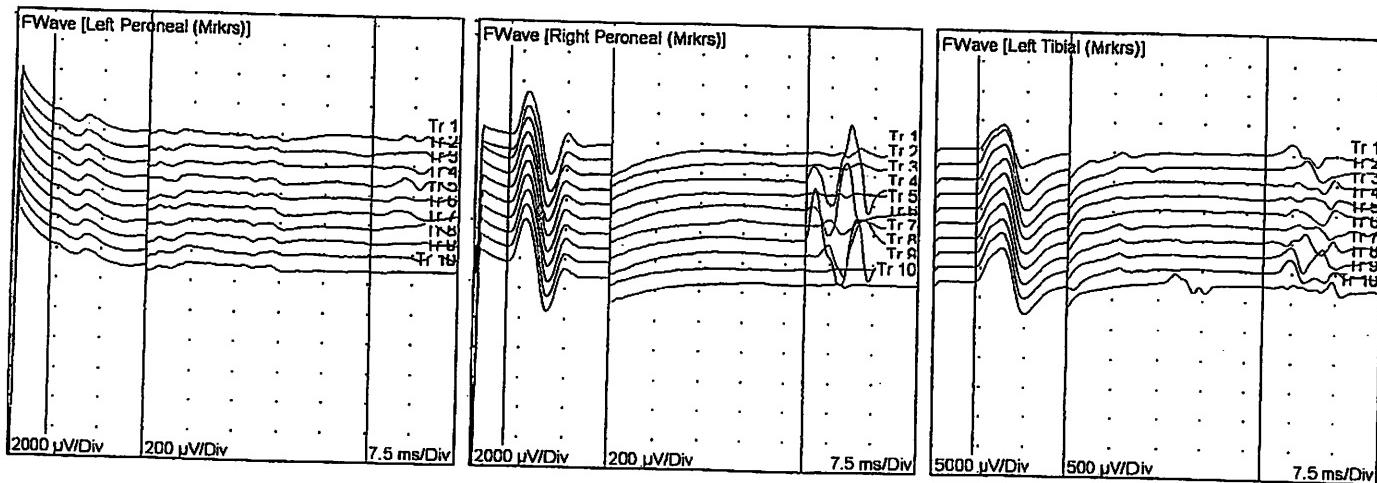
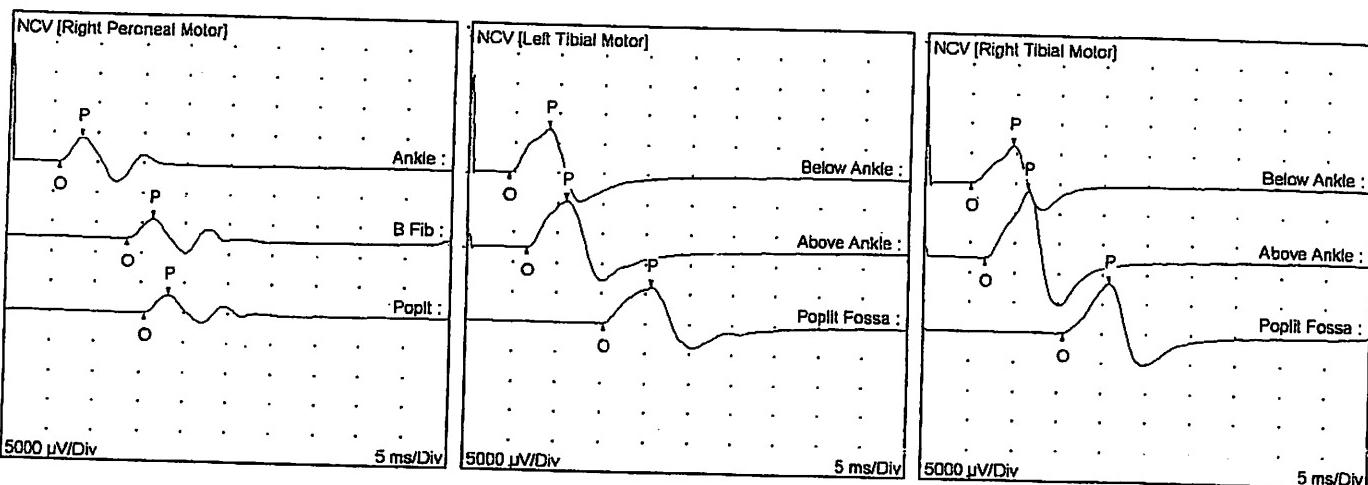
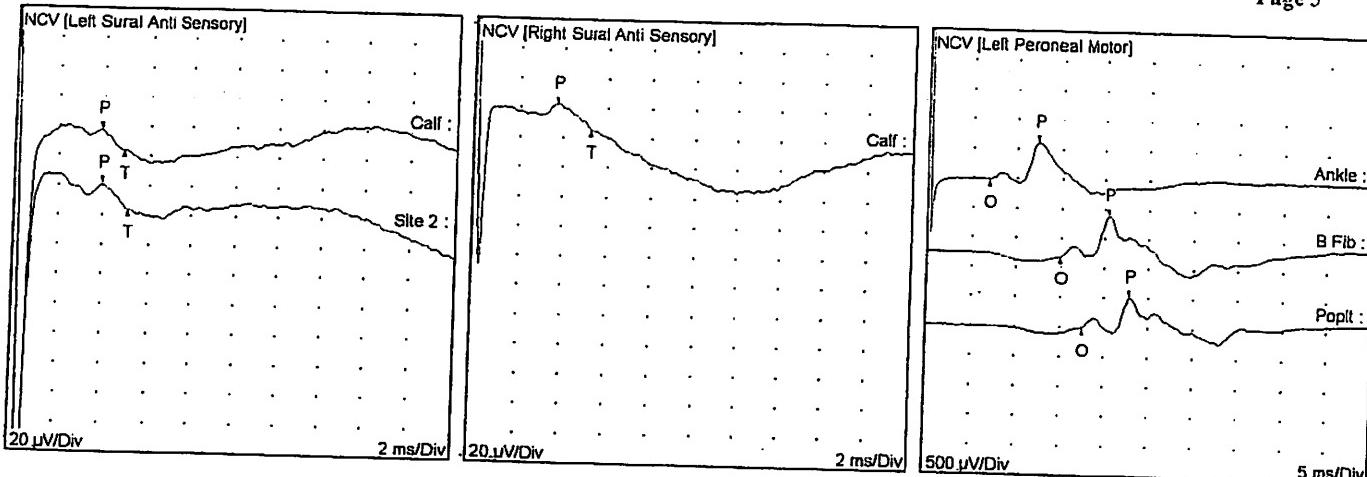
Paraspinal EMG

| Side | Muscle | Nerve | Root | Ins Act | Fibs | Psw | CRD's |
|-------|------------------|-------|-------|---------|------|-----|-------|
| Left | UpperLumbParasp | Rami | L1-L2 | Nml | Nml | Nml | Nml |
| Left | MiddleLumbParasp | Rami | L3-L4 | Nml | Nml | Nml | Nml |
| Left | LowerLumbParasp | Rami | L5-S1 | Nml | Nml | Nml | Nml |
| Right | UpperLumbParasp | Rami | L1-L2 | Nml | Nml | Nml | Nml |
| Right | MiddleLumbParasp | Rami | L3-L4 | Nml | Nml | Nml | Nml |
| Right | LowerLumbParasp | Rami | L5-S1 | Nml | Nml | Nml | Nml |

Patient: Lees, Alexander

Test Date: 3/10/2010

Page 5



Patient: Lees, Alexander

Test Date: 3/10/2010

Page 6

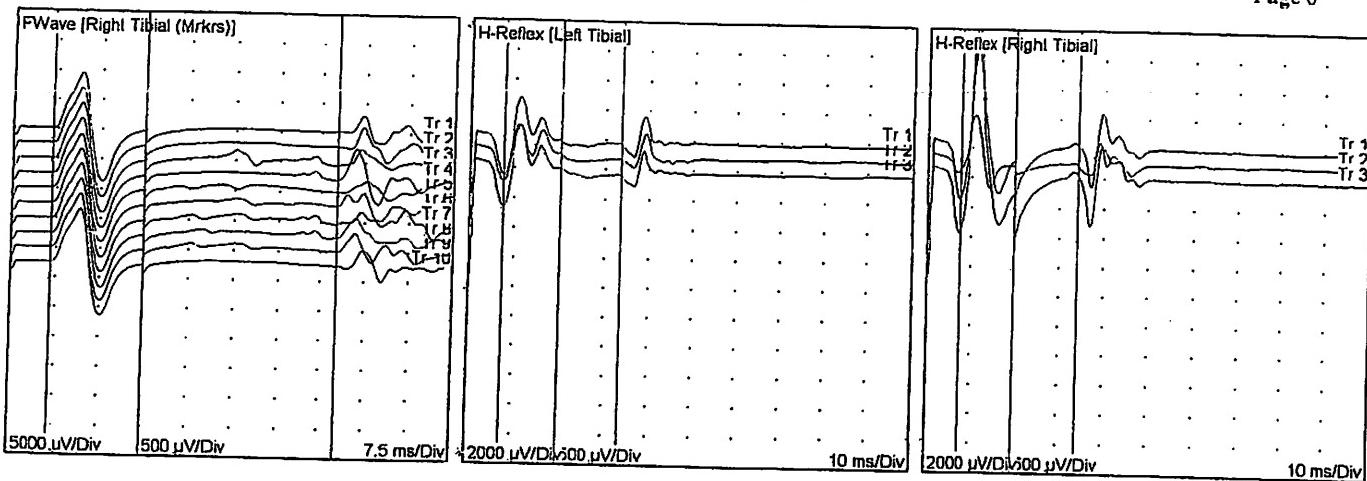


EXHIBIT C

P. Clendenin LCSW
Pelican Bay State Prison
5905 Lake Earl Drive
Crescent City, CA 955532
June 26, 2019

RE: Lees, Alexander #E13832

To Whom It May Concern:

Mr. Lees is a patient in the CDCR Mental Health Delivery System at the CCCMS level of care. He has, for the majority of the time been treated at this outpatient level of care since 2005. I have been his Primary Clinician since 11/27/2017.

His current diagnosis is Bipolar II Disorder and Borderline Personality Disorder. He also suffers from claustrophobia. His medications include Sertraline, Lithium, Strattera and Gabapentin.

Sincerely,



P. Clendenin LCSW

perma.clendenin@cdcr.ca.gov

(707)465-1000 x7333 or 7317

EXHIBIT D

*EXH-B**10F1*

New Use of Force policies, including for CCCMS and EOP prisoners

CDCR has revised its use of force policy and procedures to include new requirements for and limits on staff when using force against prisoners on the mental health caseload. The revised procedures are in the CDCR Department Operations Manual (DOM), at sections 51020.1 through 51020.24. Other rules about use of force are in Title 15, California Code of Regulations, sections 3268 et seq. The following summary only concerns use of force rules with special application to mental health patients. These rules apply only to controlled use of force situations, such as a cell extraction, and not to immediate force situations.

In all controlled use of force situations, there must be a cool down period during which a mental health staff member must try to resolve the problem. During the cool down period, the mental health staff member must also determine if the prisoner can understand orders or cannot comply with orders due to mental health issues. If a prisoner cannot understand or comply with orders because of a mental health issues, strategies other than use of force must be proposed and considered. If other strategies do not work, force can be used, but chemical agents (including pepper spray) can be used only if approved by the Warden, Chief Deputy Warden, or Administrative Officer of the Day. DOM section 51020.12.

In controlled use of force situations for prisoners in a MHCB, PIP, OU, PSU, EOP, or Ad Seg-EOP Hub, or who cannot understand or comply with orders because of mental health issues, or are at increased risk of substantial decompensation from use of force, chemical agents (including pepper spray) are prohibited unless authorized by the Warden, Chief Deputy Warden, or Administrative Officer of the Day. DOM section 51020.15.3.

EXHIBIT E

STATE OF CALIFORNIA

CRIME / INCIDENT REPORT

PART A - COVER SHEET

CDCR 837-A (Rev. 10/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

| | | | | | | | | | | | |
|---|--|---|--|-------------|---|--|--|---|--|------------------------|--|
| INSTITUTION SVSP | | FACILITY LEVEL LEVEL IV | | PAGE 1 OF 7 | | INCIDENT LOG NUMBER SVSP-FBG-17-04-0225 | | INCIDENT DATE 04/02/2017 | | INCIDENT TIME 19:56 | |
| | | | | | | | | | | | |
| SPECIFIC CRIME / INCIDENT Battery on a Peace Officer Resulting in Use of Force | | | | | <input checked="" type="checkbox"/> CCR <input type="checkbox"/> PC <input type="checkbox"/> N/A NUMBER / SUBSECTION 3005-d1 Force or Violence | | | | | | |
| D.A. REFERRAL ELIGIBLE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | CRISIS RESPONSE TEAM ACTIVATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| DEATH AND CAUSE OF DEATH <input checked="" type="checkbox"/> N/A | | ASSAULT / BATTERY <input type="checkbox"/> N/A 1. Committed On: STAFF | | | TYPE OF ASSAULT / BATTERY 1. Assault Type: BATTERY ON STAFF | | | | | | |
| SERIOUS BODILY INJURY <input checked="" type="checkbox"/> N/A | | INMATE WEAPONS <input checked="" type="checkbox"/> N/A | | | FORCE USED <input type="checkbox"/> N/A 1. PHYSICAL FORCE 2. PHYSICAL FORCE 3. PHYSICAL FORCE | | | | | | |
| ESCAPES <input checked="" type="checkbox"/> N/A | | | | | | | | | | | |
| CONTROLLED SUBSTANCE <input checked="" type="checkbox"/> N/A | | WEIGHT/ In Grams <input checked="" type="checkbox"/> N/A | | | EXTRACTION <input checked="" type="checkbox"/> N/A | | | EXCEPTIONAL ACTIVITY <input checked="" type="checkbox"/> N/A | | | |

BRIEF DESCRIPTION OF INCIDENT (ONE OR TWO SENTENCES)

On April 2, 2017, at 1956 hours Inmates LEES E13832, committed the act of Battery on a Peace Officer that resulted in staff utilizing the Physical Force to quell the incident.

COMPLETE SYNOPSIS / SUMMARY ON CDCR 837-A1

| | | | |
|--|----------------------------------|------------------|---------|
| NAME OF REPORTING STAFF (PRINT / TYPE) R MARTINEZ | TITLE CORRECTIONAL LIEUTENANT | ID # | BADGE # |
| SIGNATURE OF REPORTING STAFF | PHONE EXT. INCIDENT SITE | DATE 4/2/2017 | |
| NAME OF WARDEN / AOD (PRINT / SIGN) P. SULLIVAN | TITLE CAPTAIN | DATE | |

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT
PART A1 - SUPPLEMENT
CDCR 837-A1 (Rev. 10/15)

PAGE 2 Of 7

INCIDENT LOG NUMBER

SVSP-FBG-17-04-0225

| | | | |
|--|---|--|---|
| INSTITUTION SVSP | FACILITY FBG - 270 | INCIDENT DATE 04/02/2017 | INCIDENT TIME 19:56 |
| TYPE OF INFORMATION: | | | |
| <input checked="" type="checkbox"/> SYNOPSIS OF INCIDENT | <input type="checkbox"/> SUPPLEMENTAL INFORMATION | <input type="checkbox"/> AMENDED INFORMATION | <input type="checkbox"/> CLOSURE REPORT |

On April 2, 2017, at 1956 hours Inmates LEES E13832 committed the act of Battery on a Peace Officer that resulted in staff utilizing the Physical Force to quell the incident.

While staff was placing Inmate LEES into a holding cell in the Facility B Gym due to being involved in a prior incident (Refer to SVSP-FB5-17-04-0224), he utilized his right leg and foot and pushed of the holding cell chair. At that time, Inmate LEES left leg went back and struck Officer J. Mariscal lower left leg. As Inmate LEES continued to struggle he then elbowed backwards striking Mariscal in his left shoulder. Staff gave LEES continuous orders to cease his actions, which he ignored. He continued to move to his left side and struck Officer Ponce with his left elbow in the upper torso area. At the time, Officers Mariscal, Ponce and K. Hogeland forced Inmate LEES to the ground with their combined body weight to quell the incident. Due to the incident Inmate LEES stated he was having heart and lower back issues and he was transported to CTC. Inmate LEES was rehoused in ASU.

Due to the incident Officers Mariscal received an injury to his right wrist and remained on duty. Officer Ponce received injuries to his right wrist and forearm, both knees and aquired a headache. Officer Ponce was transported to an outside hospital by Sgt. J. Sevey. CCPOA Rep. K. White was notified of the incident.

- Officer J. Mariscal announced the Code via the radio.
- Sgt. S. Gutierrez announced the Code 4 via the radio.

SUSPECT(S): LEES E13832

VICTIM(S): N/A

ESCORT(S): Officers A. Demnowicz and S. Sheridan escorted Inmate LEES from the Facility B Gym placing him in the ERV. A holding cell was never utilized in this incident. The inmate was forced to the ground during the incident. The inmate was removed from the ground and placed in an ERV for transport.

USE OF FORCE: Officers Mariscal, Ponce and K. Hogeland forced Inmate LEES to the ground with their combined body weight.

DECONTAMINATION: N/A

VIDEOTAPE INTERVIEW: N/A

EVIDENCE: ISU Officer took a series of photographs of the suspect and officers and processed the evidence into ISU Evidence Locker # 7.

MEDICAL/MENTAL HEALTH EVALUATION: LVN I. Singson examined Inmate LEES noting no injuries. LVN E. Kaufman examined Officer Mariscal noting the following: pain and reddened are to right wrist. LVN E. Kaufman examined Officer Ponce noting the following: headache, pain, reddened area and swollen area to right wrist and forearm, pain & swollen area to right knee and pain to left knee. Inmate LEES is a participant in the Mental Health Delivery System at the CCCMS level of care.

CONCLUSION: Inmates LEES will receive 115 Rules Violation Reports for the specific act of "Battery on a Peace Officer" a Division B Offense.

NOTIFICATIONS: This incident will be referred to the Monterey County District Attorney's Office for Felony prosecution. All administrative staff has been notified of this incident. Any additional information will be forwarded via supplemental reports.

CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-A1

| | | | |
|--|----------------------------------|------|----------|
| NAME OF REPORTING STAFF (PRINT / TYPE) R MARTINEZ | TITLE CORRECTIONAL LIEUTENANT | ID # | BADGE # |
| SIGNATURE OF REPORTING STAFF | PHONE EXT. INCIDENT SITE | DATE | 4/2/2017 |
| NAME OF WARDEN / AOD (PRINT / SIGN) | TITLE | DATE | |

Page # 2

STATE OF CALIFORNIA

MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCE

DEPARTMENT OF CORRECTIONS AND REHABILITATION

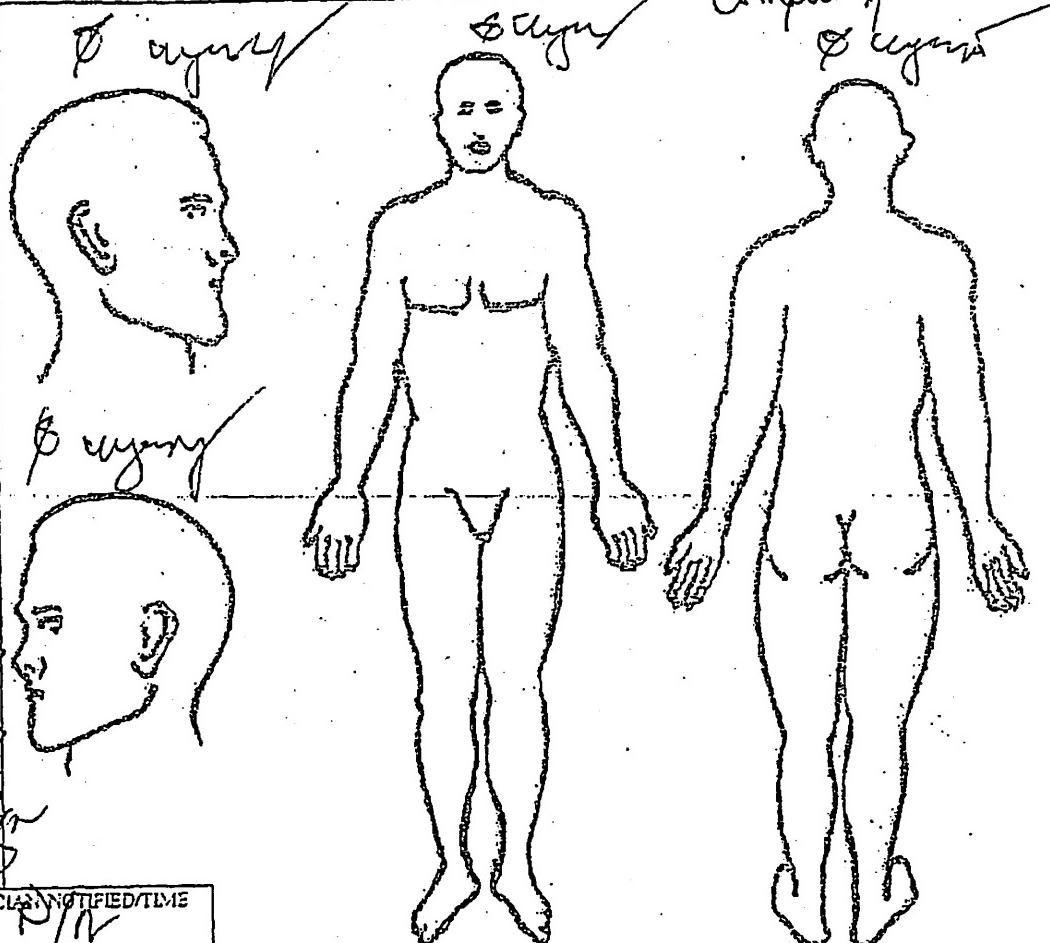
| | | | | | |
|------------------------------------|--|---|------------------------------|------------------------------------|--------------------------------|
| NAME OF INSTITUTION SUSP | FACILITY/UNIT B5 faculty | REASON FOR REPORT (circle): USE OF FORCE | INJURY UNUSUAL OCCURRENCE | ON THIS TO INJURY PRE-ADMISSION | DATE 4/21/17 |
| THIS SECTION FOR INMATE ONLY | NAME LIST EEES , FIRST ALEXANDER | CDC NUMBER B3832 | HOUSING LOC. B-224 | NEW HOUSING LOC. N/A | |
| THIS SECTION FOR STAFF ONLY | NAME LIST N/A | FIRST N/A | BADGE # N/A | RANK/CLASS N/A | ASSIGNMENT/ROLES N/A |
| THIS SECTION FOR VISITOR ONLY | NAME LAST N/A | FIRST N/A | MIDDLE N/A | DOB N/A | OCCUPATION N/A |
| | HOME ADDRESS N/A | CITY N/A | STATE N/A | ZIP N/A | HOME PHONE N/A |

| | | | | | | | | |
|--|---|--------------------------------------|--|--------------------------|------------|------------------|--------------------|-----------------|
| PLACE OF OCCURRENCE B-GYM | DATE/TIME OF OCCURRENCE 4/2/74 1959 | NAME OF WITNESS(E) CUSTODY | | | | | | |
| TIME NOTED/ED 0800 | TIME SEEN 3001 | ESCORTED BY B-GYM | MODE OF ARRIVAL (circle) REGULATORY | LITTER ON SITE | WHEELCHAIR | AGE 55 | RACE BLK | SEX M |
| PART STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR FATAL OCCURRENCE | | | | | | | | |

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR INJURIES OCCURRED

"I can't move my leg" \rightarrow M.H.- & Preadseg form

| INJURIES FOUND? YES/NO | |
|--------------------------|----|
| Abrasion/Scratch | 1 |
| Active Bleeding | 2 |
| Broken Bone | 3 |
| Bruise/Discolorated Area | 4 |
| Bump | 5 |
| Dislocation | 6 |
| Dried Blood | 7 |
| Fresh Tattie | 8 |
| Cut/Laceration/Slash | 9 |
| O.C. Spray Area | 10 |
| Pain | 11 |
| Protrusion | 12 |
| Puncture | 13 |
| Reddened Area | 14 |
| Skin Flap | 15 |
| Swollen Area | 16 |
| Other: | 17 |
| | 18 |
| | 19 |



BY NOTIFIED TIME PHYSICAL NOTIFIED TIME

TIME/DISPOSITION

~~PHYSICIANS NOTIFIED/TIME~~

REPORT COMPLETED BY CYCLE

BENT AND SONS

B.A.D.C.

FD-9

100
101

A judicial decision is included in *COMMISSION OF INVESTIGATION* case record filed in CHRA.

STATE OF CALIFORNIA

MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCE

| | | | | | |
|-------------------------------------|---|--|---|-----------------------------------|---|
| NAME OF INSTITUTION SACR | FACILITY UNIT B Yard | REASON FOR REPORT (circle) USE OF FORCE | INJURY UNUSUAL OCCURRENCE | ON THE JOB INJURY PREADMISSION | DATE 4/2/17 |
| THIS SECTION FOR INMATE ONLY | NAME LIST N/A | FIRST | CDC NUMBER N/A | HOUSING LOC. N/A | NEW HOUSING LOC. N/A |
| THIS SECTION FOR STAFF ONLY | NAME LIST Mansfield | FIRST | BADGE # 70170 | RANK/CLASS CO | ASSIGNMENT/RDOS FR/ISAT |
| THIS SECTION FOR VISITOR ONLY | NAME LIST N/A | FIRST | MIDDLE | DOB N/A | OCCUPATION N/A |
| HOME ADDRESS N/A | | CITY | STATE | ZIP | HOME PHONE N/A |
| PLACE OF OCCURRENCE B Gym | DATE/TIME OF OCCURRENCE 4/2/17 @ 1954 | NAME OF WITNESSES CO Ponce | | | |
| TIME NOTIFIED 2030 | TIME SEEN 2032 | ESCORTED BY Self | MODE OF ARRIVAL (circle) AMBULATORY | LITTER ON SITE | WHEELCHAIR |
| | | | | | AGE 35 RACE MEX SEX M |

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

"Throbbing pain @ wrist. Hear a popping sound."

INJURIES FOUND? YES / NO

| | |
|------------------------|----|
| Abrasion/Scratch | 1 |
| Active Bleeding | 2 |
| Broken Bone | 3 |
| Bruise/Discolored Area | 4 |
| Burn | 5 |
| Dislocation | 6 |
| Dried Blood | 7 |
| Fresh Tattoo | 8 |
| Cut/Laceration/Slash | 9 |
| O.C. Spray Area | 10 |
| Pain | 11 |
| Protrusion | 12 |
| Puncture | 13 |
| Reddened Area | 14 |
| Skin Flap | 15 |
| Swollen Area | 16 |
| Other | 17 |
| | 18 |
| | 19 |

O.C. SPRAY EXPOSURE? YES / NO

DECONTAMINATED? YES / NO

Self-decontamination
instructions given? YES / NO

Refused decontamination? YES / NO

Q 15 min. checks N/A IN N/A

Staff issued exposure packet? YES / NO

| | |
|--|---------------------------------------|
| RN NOTIFIED/TIME 4/2/17 @ 2040 | PHYSICIAN NOTIFIED/TIME N/A |
|--|---------------------------------------|

TIME/DISPOSITION

REPORT COMPLETED BY/TITLE (PRINT AND SIGN)

E. Kaufmann, LVN EKaufmannBADGE #
Weld
RDOS
Thu

(Medical data is to be included in progress notes or emergency care record filed in UHR)

State of California

Youth and Adult Correctional Agency

Memorandum

Date : February 17, 2004

To : All California Department of Corrections Employees

Subject: ZERO TOLERANCE REGARDING THE "CODE OF SILENCE"

The California Department of Corrections (CDC) is only as strong as the values held by each of its employees, sworn and non-sworn. How we conduct ourselves inside our institutions and in the Central Office is a reflection of those values.

The "Code of Silence" operates to conceal wrongdoing. One employee, operating alone, can foster a Code of Silence. The Code of Silence also arises because of a conspiracy among staff to fail to report violations of policy, or to retaliate against those employees who report wrongdoing. Fostering the Code of Silence includes the failure to act when there is an ethical and professional obligation to do so.

Every time a correctional employee decides not to report wrongdoing, he or she harms our Department and each one of us by violating the public's trust. As members of law enforcement, all Correctional Officers must remain beyond reproach. The public's trust in this Department is also violated by retaliating against, ostracizing, or in anyway undermining those employees who report wrongdoing and/or cooperate during investigations. There is no excuse for fostering a Code of Silence.

Your hard fought efforts to protect the public deserve recognition. Recently, however, the public's trust has been undermined by the operation of a Code of Silence within the CDC. To correct this problem we are taking steps to ensure the Department exemplifies integrity and instills pride. Part of this effort is the immediate implementation of a zero tolerance policy concerning the Code of Silence. We will not tolerate any form of silence as it pertains to misconduct, unethical, or illegal behavior. We also will not tolerate any form of reprisal against employees who report misconduct or unethical behavior, including their stigmatization or isolation.

Each employee is responsible for reporting conduct that violates Department policy. Each supervisor and manager is responsible for creating an environment conducive to these goals. Supervisors are responsible for acquiring information and immediately conveying it to managers. Managers are responsible for taking all appropriate steps upon receipt of such information, including initiating investigations and promptly disciplining all employees who violate departmental policy.

Any employee, regardless of rank, sworn or non-sworn, who fails to report violations of policy or who acts in a manner that fosters the Code of Silence, shall be subject to discipline up to and including termination.



RICHARD RIMMER
Director (A)
California Department of Corrections



RODERICK Q. HICKMAN
Agency Secretary
Youth and Adult Correctional Agency

EXHIBIT F



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



EXH.B.D

*7- Documents
X Double Sided
2 Double Sided*

Date: SEP 25 2017

To: LEES, ALEXANDER (E13832)
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

From: California Correctional Health Care Services
Health Care Correspondence and Appeals Branch
P.O. Box 588500
Elk Grove, CA 95758

Tracking/Log #: SVSP SC 17001796

This Staff Complaint appeal was reviewed by Health Care Correspondence and Appeals Branch staff on behalf of the Deputy Director, Policy and Risk Management Services. All submitted information has been considered.

DIRECTOR'S LEVEL DECISION:

Appeal is denied. This decision exhausts your administrative remedies.

APPEAL ISSUES:

Refer to the attached CDCR 602 HC, Patient-Inmate Health Care Appeal, and CDCR 602-A, Inmate/Parolee Appeal Form Attachment, dated April 4, 2017, for full details regarding your issue(s).

You are requesting:

- The immediate termination of LVN Singsong.
- Full compensation for pain and suffering.

BASIS FOR DIRECTOR'S LEVEL DECISION:

Your health care appeal was deemed a staff complaint by the institutions hiring authority. The Director's Level Examiner reviewed the Confidential Inquiry, supporting documents, and your health care appeal documents. Complaints against staff are taken seriously and all efforts are made to ensure these matters are thoroughly researched and responded to in accordance with governing laws, rules, and policies. Any report generated or action taken regarding a staff complaint is confidential. As such, no matters related to staff shall be shared with other staff, inmates, or the public.

Your complaint was referred for a Staff Complaint Inquiry. The supervisor's inquiry into the matter concluded staff did not violate California Department of Corrections and Rehabilitation (CDCR) policy. Review of the inquiry documents and all supporting documents demonstrated you were interviewed on May 12, 2017, and LVN Singson was interviewed on May 8, 2017. Your health record was reviewed. The content of the inquiry supported the conclusion determined.

5

It is not in the purview of appellants to request specific action to be taken in regard to the conduct of the staff complaint inquiry or in regard to disciplinary action against staff. California Code of Regulations, Title 15, Section 3084.9(i) and Department Operations Manual specify the requirements necessary to conduct a staff complaint inquiry. Further, any personnel action taken against staff is confidential and will not be shared with inmates, staff, or the public.

Monetary compensation is outside the jurisdiction of the health care appeals process.

After review, there was no compelling evidence that warranted intervention at the Director's Level of Review as your staff complaint was processed in accordance with CDCR Policy and the California Code of Regulations, Title 15.

RULES AND REGULATIONS:

The rules governing these issues are: California Code of Regulations, Title 15, Section 3001, 3004, 3084.1, 3270, 3271, 3350, 3354, and 3391; CDCR Operations Manual, Section 31140.14; and Inmate Medical Services Policies and Procedures.

ORDER:

No changes or modifications are required by the institution.

J. Lewis, Deputy Director
Policy and Risk Management Services
California Correctional Health Care Services

STATE OF CALIFORNIA
PATIENT-INMATE HEALTH CARE APPEAL
 CDCR 602 HC (REV. 6/13)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 1 of 2

STAFF USE ONLY
 Emergency Appeal

Yes No

Institution: SISP SC Log #: 19001796 Category: Medical
 FOR STAFF USE ONLY

Signature:

You may appeal any medical, mental health, or dental decision, action, condition, omission, policy or regulation that has a material adverse effect upon your welfare. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Health Care Appeals Coordinator (HCAC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY.

Name (Last, First):

Lee's Alexander CDCR Number: E 13832 Unit/Cell Number: 29-109 Assignment:

State briefly the subject/purpose of your appeal (Example: Medication, To See Specialist, etc.):

SECTION A Explain your issue (If you need more space, use Section A of the CDCR 602-A):

SECTION B Action requested (If you need more space, use Section B of the CDCR 602-A):

Supporting Documents: Refer to CCR 3084.3.

List supporting documents attached (e.g., Trust Account Statement; CDCR 510, Comprehensive Accommodation Chrono; CDCR 7362, Request for Health Care Services; etc.)

No, I have not attached any supporting documents. Reason:

Patient-Inmate Signature: _____ Date Submitted: _____

By placing my initials in this box, I waive my right to receive an interview.

SECTION C: FIRST LEVEL - Staff Use Only

Check One: Is CDCR 602-A attached? Yes No

Yes No

Check One: Is this a reclassified/converted 1824? Yes No

This appeal has been:

Bypassed at the First Level of Review. Go to Section E.

Date: _____ Date: _____ Date: _____ Date: _____

Rejected (See attached letter for instruction): Date: _____ Date: _____ Date: _____ Date: _____

Date: _____

Cancelled (See attached letter): Date: _____

Title: _____ Date Assigned: _____ Date Due: _____

Accepted Assigned to: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____

Interview Location: _____

Your appeal issue is: Granted Granted in part Denied Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

1. Disability Code: _____

TABE score ≤ 4.0 Additional time P/I asked questions
 DPH DPV LD Equipment SLI P/I summed information
 DPS DNH Louder Slower Please check one:
 DNS DDP Basic Transcribe Not reached* Reached
 Not Applicable Other* "See chrono/notes"

2. Accommodation: _____

3. Effective Communication: _____

Interview conducted? Yes No

Interviewer: _____ Title: _____

(Print Name) _____

Signature: _____ Date completed: _____

Reviewer: _____ Title: _____

(Print Name) _____

Signature: _____

4. Comments: _____

MAP = 10.9

HCAC Use Only Date received by HCAC: _____ Date closed and mailed/delivered to appellant: _____



4/20/17

7

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PATIENT/INMATE HEALTH CARE APPEAL

CDCR 602 HC (REV. 04/11)

Side 1

| | | | | |
|------------------|------------------------------|-----------------------------|--------|-----------|
| STAFF USE ONLY | | Institution: | Log #: | Category: |
| Emergency Appeal | <input type="checkbox"/> Yes | <input type="checkbox"/> No | SV8780 | 17001796 |
| Signature: | Date: | FOR STAFF USE ONLY | | |

You may appeal any California Prison Health Care Services (CPHCS) decision, action, condition, omission, policy or regulation that has a material adverse effect upon your welfare. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Health Care Appeals Coordinator (HCAC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY.

| | | | |
|-----------------------------------|-------------------------------|-----------------------------------|-------------|
| Name (Last, First): <i>Lee</i> | CDC Number: <i>E-13832</i> | Unit/Cel Number: <i>29-109</i> | Assignment: |
|-----------------------------------|-------------------------------|-----------------------------------|-------------|

State briefly the subject/purpose of your appeal (Example: Medication, To See Specialist, etc.):

*Deliberate indifference to life, limb and safety of Prisoner*A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): *On 4/12/17 I**legged L.V.N Singong. To treat me for leg cramps
and lower back sprain. L.V.N Singong was
told by doc. He is lacking. He dont make me*B. Action requested (If you need more space, use Section B of the CDCR 602-A): *The immediate**fixing of L.V.N Singong. Reported to Lee, J.A.D.
for immediate investigation and full
compensation for pain and suffering.* Supporting Documents: Refer to CCR 3084.3.

List supporting documents attached (e.g. Trust Account Statement; CDCR 7410, Comprehensive Accommodation Chrono; CDCR 7362, Request for Health Care Services; etc.):

 No, I have not attached any supporting documents. Reason: *Obtaining from
I.S.U and medical*Patient/Inmate Signature: *[Signature]* Date Submitted: *4/14/17*

By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? Yes No

COMPLETED

This appeal has been:

 Bypassed at the First Level of Review. Go to Section E. Rejected (See attached letter for instruction): Date: _____ Date: _____ Date: _____ Date: _____ Cancelled (See attached letter): Date: _____ Accepted at the First Level of Review

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: Granted Granted in part Denied Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)

Reviewer: _____ Title: _____ Signature: _____

(Print Name)

Date received by HCAC: _____

HCAC Use Only

Date mailed/delivered to appellant: *1/1/17*

9

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA

PATIENT-INMATE HEALTH CARE APPEAL
CDCR 602 HC (Rev. 06/13)

Page 2 of 2

[SECTION D] If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Health Care Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Patient-Inmate Signature:

Date Submitted:

SECTION E. SECOND LEVEL - Staff Use Only

This appeal has been:

 Bypassed at Second Level of Review. Go to Section G. Rejected (See attached letter for instruction): Date: _____ Date: _____ Date: _____ Date: _____ Cancelled (See attached letter): Date: _____ Accepted Assigned to: *CME* Title: _____ Date Assigned: _____ Date Due: *5/24/17*

Second Level Responder: Complete a Second Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: *5/19/17* Interview Location: _____Your appeal issue is: Granted Granted in part Denied Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F.

1. Disability Code:

- TABE score 4.0
- DPH DPV LD
- DPS DNH
- DNS DDP
- Not Applicable

2. Accommodation:

- Additional time
- Equipment SLI
- Louder Slower
- Basic Transcribe
- Other*

3. Effective Communication:

- P/I asked questions
- P/I summed information
- Please check one:
- Not reached Reached

*See chrono/notes

4. Comments:

*NAME = 10.9*Interview conducted? Yes NoInterviewer: *R. R. SRN#* Title: _____

(Print Name)

Signature: *R. R.* Date completed: *5/19/2017*

(Print Name)

Reviewer: *A. Wilson* Title: *CMB*

(Print Name)

Signature: *Wilson*

(Print Name)

HCAC Use Only

Date closed and mailed/delivered to appellant: *5/23/17*

SECTION F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Health Care Appeals, ATTN: Chief, Building C, P.O. Box 588500, Elk Grove, CA 95758. If you need more space, use Section F of the CDCR 602-A.

Patient-Inmate Signature:

Date Submitted:

SECTION G. THIRD LEVEL - Staff Use Only Rejected (See attached letter for instruction): Date: _____ Date: _____ Date: _____ Date: _____ Cancelled (See attached letter): Date: _____ Accepted at the Third Level of ReviewYour appeal is: Granted Granted in part Denied Other: _____

See attached Third Level response.

Third Level Use Only
Date closed and mailed/delivered to appellant: *SEP 25 2017*

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

Patient-Inmate Signature: _____ Date Submitted: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

*Q*

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PATIENT/INMATE APPEAL

Side 2

CDCR 602 HC (REV. 04/11)

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Health Care Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Patient/Inmate Signature: _____ Date Submitted: _____

| | | |
|---|--|--|
| E. Second Level - Staff Use Only | Staff - Check One: Is CDCR 602-A Attached? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| This appeal has been: | | |
| <input type="checkbox"/> By-passed at Second Level of Review. Go to Section G. | | |
| <input type="checkbox"/> Rejected (See attached letter for instruction): Date: _____ Date: _____ Date: _____ Date: _____ | | |
| <input type="checkbox"/> Cancelled (See attached letter): Date: _____ | | |
| <input type="checkbox"/> Accepted at the Second Level of Review | | |
| Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____ | | |
| Second Level Responder: Complete a Second Level response. Include Interviewer's name, title, interview date, location, and complete the section below. | | |
| Date of Interview: _____ Interview Location: _____ | | |
| Your appeal issue is: <input type="checkbox"/> Granted <input type="checkbox"/> Granted in part <input type="checkbox"/> Denied <input type="checkbox"/> Other: _____ | | |
| See attached letter. If dissatisfied with Second Level response, complete Section D. | | |
| Interviewer: _____ Title: _____ Signature: _____ Date completed: _____ (Print Name) | | |
| Reviewer: _____ Title: _____ Signature: _____ (Print Name) | | |
| HCAC Use Only Date mailed/delivered to appellant: _____ / _____ / _____ | | |

Date received by HCAC: _____

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Office of Third Level Appeals - Health Care, California Prison Health Care Services, P.O. Box 4038, 660 Suite 400, Sacramento, CA 95812-4038. If you need more space, use Section F of the CDCR 602-A.

Under color of state law, D.V.N. Springer goes under the "I speak in all of silence". I did not go to State documents. Never talked too much. Admin. stopped any form or fashion of treatment. Dropped charges and became a co-conspirator to force and violence.

Patient/Inmate Signature: _____ Date Submitted: _____ 5/23/2017

| | | | | |
|---|----------------------------------|--|---------------------------------|---------------------------------------|
| G. Third Level - Staff Use Only | | | | |
| <input type="checkbox"/> Rejected (See attached letter for instruction): | Date: _____ | Date: _____ | Date: _____ | Date: _____ |
| <input type="checkbox"/> Cancelled (See attached letter): | Date: _____ | | | |
| <input type="checkbox"/> Accepted at the Third Level of Review | | | | |
| Your appeal is | <input type="checkbox"/> Granted | <input type="checkbox"/> Granted in part | <input type="checkbox"/> Denied | <input type="checkbox"/> Other: _____ |
| See attached Third Level response. | | | | |
| Third Level Use Only Date mailed/delivered to appellant: _____ / _____ / _____ | | | | |

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Patient/Inmate Signature: _____ Date Submitted: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

10

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
OFFICE OF APPEALS
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

THIRD LEVEL APPEAL DECISION

Date: AUG 15 2017

In re: Alexander Lees, E13832
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95532

TLR Case No.: 1705825 Local Log No.: SVSP-17-01800

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner H. Liu, Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that Salinas Valley State Prison (SVSP) staff were malicious, callous, and deliberately indifferent when they assaulted him. The appellant alleges on April 2, 2017, Correctional Officers O. Ponce, J. Mariscal, and K. Hogeland conspired to commit harm to him, and falsified state document to maliciously prosecute him. The appellant alleges the aforementioned Officers kicked him; slammed him to the ground on his face. His elbows, arms, and wrist were bent, stepped on, and twisted, inflicting cruel and unusual punishment to him. He further alleges staff were deliberately indifferent to his health and safety.

The appellant requests the "IAD" be notified for an investigation into the aforementioned Officers, Correctional Sergeant Guitierrez, and Correctional Lieutenant Martinez; Officers submit to polygraph examination; cease all of the disciplinary actions against the incident; he be transferred to an institution of his choice; staff be terminated upon substantiating culpability of any infraction; supervising staff be demoted; and be awarded punitive and compensatory damages.

II SECOND LEVEL'S DECISION: The Second Level of Review (SLR) identified and addressed the appellant's allegations of staff misconduct. The reviewer documented that an appropriate supervisory staff member was assigned to conduct an inquiry into this matter. The inquiry included a review of the evidence and an evaluation of any interview conducted. In order to determine the facts, the inquiry also included a review of pertinent documents, current policies, laws, and procedures. The SLR noted that all staff personnel matters are confidential in nature, and that the appellant would only be notified whether the actions of staff were or were not in compliance with policy. The SLR found that the staff did not violate policy as alleged. The SLR partially granted the appeal in that an inquiry was conducted.

III THIRD LEVEL DECISION: Appeal is denied.

A. FINDINGS: Upon review of the documentation submitted, the Third Level of Review (TLR) finds that the appellant's allegations were appropriately reviewed and evaluated by administrative staff. The TLR notes that all staff personnel matters are confidential in nature and will not be disclosed to other staff, the inmate population, the general public, or the appellant. The appellant was informed that if the conduct of staff was determined to not be in compliance with policy, the institution would take the appropriate course of action. In this case, the SLR informed the appellant that an inquiry was completed and disclosed the determination of the inquiry to the appellant. The TLR reviewed the confidential inquiry and concurs with the determination of the SLR. The TLR notes that, while the appellant has the right to submit an appeal as a staff complaint, requests for: administrative action regarding staff; the placement of documentation in a staff member's personnel file; to reprimand staff; to remove staff from a position; and/or requests for monetary compensation are beyond the scope of the appeals process. The TLR finds the institution's response complies with departmental policy, and the appellant's staff complaint allegations were properly addressed. Therefore, no further relief shall be afforded at the TLR.

ALEXANDER LEES, E13832

CASE NO. 1705825

PAGE 2

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3001, 3004, 3005, 3084.1, 3268, 3270, 3380, 3391

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



H. LIU, Appeals Examiner
Office of Appeals



M. VOONG, Chief
Office of Appeals

cc: Warden, PBSP
Appeals Coordinator, PBSP
Appeals Coordinator, SVSP

Memorandum

Date : April 25, 2017

To : Lees, E13832
B5-222
Salinas Valley State Prison

Subject: **STAFF COMPLAINT RESPONSE - APPEAL # SVSP-L-17-001800, SECOND LEVEL RESPONSE**

APPEAL ISSUE: Appellant contends that he was kicked, beaten and slammed to the ground by Officers J. Mariscal, K. Hogeland and O. Ponce, on April 2, 2017, in the Facility B Gym when he told staff that his legs were cramping and he wanted to go to Medical.

All issues unrelated to the allegation of staff misconduct must be appealed separately and will not be addressed in this response. You do not exhaust administrative remedies on any unrelated issue not covered in this response or concerning any staff member not identified by you in this complaint. If you are unable to name all involved staff you may request assistance in establishing their identity.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal is: Being processed as an Appeal Inquiry.

The appellant alleges on April 2, 2017, he was kicked, beaten and slammed to the ground by Officers J. Mariscal, K. Hogeland and O. Ponce in the Facility B Gym when he told them that his legs were cramping and he wanted to go to Medical.

INTERVIEW/EFFECTIVE COMMUNICATION:

A review of the Test of Adult Basic Education (TABE) list reveals the appellant has a Reading Grade Point Level above 4.0 and the Disability and Effective Communication System (DECS) reveals the appellant does not have a physical impairment that would limit effective communication. Therefore, the appellant did not require special accommodation to achieve effective communication and interactions with the interviewer convinced the interviewer that the appellant understood the issues of the appeal.

Your appeal is PARTIALLY GRANTED in that: The Appeal inquiry has been complete and all issues has been reviewed and were adequately addressed.

The following witnesses were interviewed: Correctional Officer's J. Masical; K. Hogeland; O. Ponce; Licensed Vocational Nurse I. Singson; and Inmate Gray, F37014, (B5-202). The following information was reviewed as a result of your allegations of staff misconduct: Appeal log number SVSP-L-17-01800; Incident SVSP-FBG-17-04-0225; Video Taped Interviews completed on April 15, 2017, with Inmates Lees and Gray. Staff: **did did not** violate CDCR policy with respect to one or more of the issues appealed.

APPEAL # SVSP-L-17-01800

Attachment E-1

Lees, E13832

Page 2

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.

- As such, the details of any inquiry will not be shared with staff, members of the public, or offender appellants.
- Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint.
- Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process.

If you wish to appeal the decision and/or exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.

Print: LT. J. Stevenson
Interviewer

Sign:  Date: 4-25-2017

Print: R. Binkele CDW (A)
Reviewing Authority

Sign:  Date: 5-22-17

STATE OF CALIFORNIA
RIGHTS AND RESPONSIBILITY STATEMENT
CDCR 1858 (Rev. 10/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SVSP-L-17-01800

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

| | | |
|---|--|--|
| COMPLAINANT'S PRINTED NAME <i>Alexander Lee S</i> | COMPLAINANT'S SIGNATURE | DATE SIGNED 4/20/17 |
| INMATE/PAROLEE PRINTED NAME <i>A. Lee S</i> | INMATE/PAROLEE'S SIGNATURE | CDC NUMBER E-13832 DATE SIGNED 4/20/17 ? |
| RECEIVING STAFF'S PRINTED NAME <i>J. Stevenson</i> | RECEIVING STAFF'S SIGNATURE <i>J. Stevenson</i> | DATE SIGNED 4-20-2017 |

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____ Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? Yes No

This appeal has been:

- By-passed at Second Level of Review. Go to Section G.
 Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____
 Cancelled (See attached letter)
 Accepted at the Second Level of Review

Assigned to: J. Stevenson Title: LT Date Assigned: 4/18 Date Due: 5/24

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: 4-20-2017Interview Location: Z9, ASU, 567 officeYour appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: J. Stevenson (Print Name) Title: LT Signature: J. Stevenson Date completed 4-25-2017

Reviewer: R. Bumaga (Print Name) Title: CW Signature: MJ

Date received by AC: _____

AC Use Only
Date mailed/delivered to appellant 4-25-2017

(APR 5/15/17)

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Under color of state law, M.J.P. chooses to gender the Free State of silence, shield, protect a ^{c/o 05} with multiple item assault and batteries, and Majorious activities. Deliberately wrongfully. With malicious Deliberate indifference, inflict cruel and unusual Punishment to my person, hard out this.

Inmate/Parolee Signature: A. J. COOZ Date Submitted: 5/25/2017

G. Third Level - Staff Use Only

This appeal has been:

- Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
 Cancelled (See attached letter) Date: _____

Accepted at the Third Level of Review. Your appeal issue is: Granted Granted in Part Denied Other: AUG 30 2017

See attached Third Level response.

Third Level Use Only AUG 16 2017
Date mailed/delivered to appellant 4-25-2017

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____ Date: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR 602-A (08/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

| | | |
|-----------------------------|--|--------------------|
| IAB USE ONLY 1705825 | Institution/Parole Region: Log #: SVSP-L-17-01800 | Category: 7 |
| FOR STAFF USE ONLY | | |

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

| | | | |
|---------------------------------|--------------------------------|---------------------------------|----------------------|
| Name (Last, First): Levi | CDC Number: A E13832 | Unit/Cell Number: Z9-109 | Assignment: B |
|---------------------------------|--------------------------------|---------------------------------|----------------------|

A. Continuation of CDCR 602, Section A only (Explain your issue): DOCUMENTS TO HAVE COMPLAINT IMPICIOUSLY PROSECUTED.

On 4/2/17. Complainant was BEATEN KICKED STAMMED TO THE GROUND ON HIS FACE! HIS ARMS WRIST, BENT, STEPPED, TWISTED ON BY THE FORMERLY MENTIONED CPO PONCE. MARSHAL HOAGGIN. INFlicting OF CRUEL AND UNUSUAL PUNISHMENT. WITH DELIBERATE INDIFFERENCE TO COMPLAINANT'S HEALTH AND SAFETY.

- A
- B
- C
- D
- E
- F
- G
- H
- I
- J
- K
- L
- M
- N
- O
- P
- Q
- R
- S
- T
- U
- V
- W
- X
- Y
- Z

Inmate/Parolee Signature: M. Levi Date Submitted:
9/14/17

B. Continuation of CDCR 602, Section B only (Action requested): THAT ANY DISCIPLINARY GENERATED FROM THIS INCIDENT BE IMMEDIATELY STOPPED! DROPPED. THAT COMPLAINANT BE IMMEDIATELY TRANSFERRED TO INSTITUTION OF CHOICE. UPON CULPABILITY OF ANY INFRACTION. TO FIRRED. SUPERVISORS DEMOTED.

Complainant RECEIVE PUNITIVE AND COMPENSATORY DAMAGES.

REC BY OOA

AUG 20 2017

REC BY OOA

MAY 31 2017

Inmate/Parolee Signature: M. Levi Date Submitted: 9/14/17

Inmate/Parolee Signature: _____ Date Submitted: _____

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response): cuffed behind my back. Having a permanent alternative restraint chosen. Behind the Green Wall." With malice, assault and batter my person. Failing to uphold my 8th Amendment Rights to be free from cruel and unusual punishment. Inflicting pain and suffering.

Inmate/Parolee Signature: _____ Date Submitted: 5/25/01